

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

DANIEL E BLASER
Claimant

APPEAL NO. 09A-UI-06017-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EMPLOYMENT SERVICES
Employer

OC: 02/08/09
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 15, 2009, reference 04, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on May 14, 2009. Claimant participated. Employer participated through Vicky Marley. Jill Rich was not available to participate.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked part-time as a cook from March 17, 2009 and was separated after seven days of employment on March 25, 2009. He was unable to take regular lunch breaks even though the time was deducted from his paycheck. His immediate supervisor DeMarlie and two others trained him but gave him conflicting instructions and he did not have support or assistance from dietary aides while working alone on a shift. DeMarlie also told him that she was ready to “turn him loose to work on his own” while also telling him she did not think this was the job for him.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment with good cause attributable to the employer.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

Generally notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Board*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Board*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. Accordingly, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

The lack of breaks even though break time was removed from his paycheck and training by three separate individuals with conflicting instructions and lack of training before his supervisor told him she was ready “turn him loose” on the job without additional training or supervision while also telling him the job was not for him created an intolerable work environment for claimant that gave rise to a good cause reason for leaving the employment. Benefits are allowed.

DECISION:

The April 15, 2009, reference 04, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible. The benefits withheld effective the week ending April 4, 2009 shall be paid to claimant forthwith. Since this is a non-base period employer, it will not be liable for charges on this claim.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs